

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(a). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115(a).

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

ROGER ALLEN BOGUE,

Defendant and Appellant.

B257050

(Los Angeles County
Super. Ct. No. KA104716)

APPEAL from a judgment of the Superior Court of Los Angeles County,
George Genesta, Judge. Dismissed as moot.

James C. Huber, under appointment by the Court of Appeal, for Defendant and
Appellant.

Kamala D. Harris, Attorney General, Gerald A. Engler, Chief Assistant Attorney
General, Lance E. Winters, Senior Assistant Attorney General, Steven D. Matthews and
J. Michael Lehmann, Deputy Attorneys General, for Plaintiff and Respondent.

A jury convicted Roger Bogue of assault with a deadly weapon, a knife. Bogue's sole contention on appeal is that the trial court erred in imposing an additional year in state prison under Penal Code section 12022, subdivision (b)(1) because the knife use was an element of the offense. The People concede the error.

The People ask us to remand the case to the trial court for resentencing. However, by letter dated November 20, 2014, the California Department of Corrections and Rehabilitation notified the trial court of the sentencing error. On January 16, 2015, the trial court struck the one year and ordered "the previous sentence as to Count 1 of the mid-term of 3 years state prison, to remain." The minute order states that both the prosecutor and defense counsel waived their appearances for that proceeding.

DISPOSITION

Accordingly, as Bogue has received the relief he seeks on appeal, we dismiss the appeal as moot.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

JONES, J.*

WE CONCUR:

EDMON, P. J.

ALDRICH, J.

* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.